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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,696	02/06/2004	Mervyn John Rose	85170-5100	7787
28765	7590	01/03/2007	EXAMINER	
WINSTON & STRAWN LLP			SCHILLINGER, LAURA M	
PATENT DEPARTMENT			ART UNIT	PAPER NUMBER
1700 K STREET, N.W.			2813	
WASHINGTON, DC 20006				
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/03/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/773,696	ROSE ET AL.	
	Examiner Laura M. Schillinger	Art Unit 2813	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 September 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6-13 and 39-67 is/are pending in the application.
- 4a) Of the above claim(s) 39-67 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

***Please note:*** “crystallisation” is an incorrect spelling in the US- “crystallization” is proper. The Examiner is aware that perhaps crystallisation is a proper spelling in the United Kingdom- however, future text searching would be aided greatly in the US if the spelling is corrected. However, if this is against the Applicant’s wishes, no correction is required.

### ***Election/Restrictions***

Newly submitted claims 39-67 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 39-67 pertain to separate and distinct species from that of originally elected claims 6-13.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 39-67 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Cathey et al ('207).

Cathey teaches the following claimed limitations as cited below:

6. A field emission backplate comprising a plurality of emitter sites formed by laser crystallization of a planar thin body or thin film amorphous semiconductor based material (Col.5, lines: 60-69).
7. The field emission backplate of claim 6, wherein the semiconductor based material is silicon or an alloy thereof (Col.5, lines: 60-69).
- 8 A field emission device comprising the field emission backplate of claim 6 (Abs., lines: 1-5).
9. The field emission device of claim 8, wherein the field emission device is a vacuum device wherein the emitter sites of the backplate act as an emission source in the device (Col.4, lines: 30-40).
10. The field emission device of claim 9, further comprising a substrate, a field emission backplate, and an evacuated space and a transparent window, wherein the field emission backplate is formed upon the substrate and the evacuated space is located between the field emission backplate and the thin film transparent metal or metallised phosphor (Col.4, lines: 10-40).

11. The field emission device of claim 8, further comprising a wide band-gap light emitting material, into which the electrons from the emitter sites of the backplate are emitted in use (Col.4, lines: 10-40).

12. (Original) The field emission device of claim 11, further comprising a substrate, a field emission backplate on one side of which is formed a plurality of emitter sites, a light emitting polymer and a thin film transparent metal or metallised phosphor, wherein a field emission backplate is formed upon the substrate, one surface of the light emitting polymer is disposed on a plurality of emitter sites of the field emission backplate, the thin film transparent metal being disposed on the other surface of the light emitting polymer (Col.4, lines: 10-40).

13. The field emission device of claim 11, wherein the device is a display device (Col.4, lines: 1-10).

***Response to Arguments***

Applicant's arguments filed 9/26/06 have been fully considered but they are not persuasive. Applicant argues that Cathey fails to teach crystallization by laser- Applicant is referred to Fig.3D- showing laser crystallization. Applicant argues there is no patterning of the laser beam prior to exposure of the amorphous material- the Examiner could not find such a limitation in claim 6. Applicant argues that the unit cells are not in a regular arrangement- again, the Examiner could not find such a limitation in claim 6. Applicant's arguments seemed to be based primarily on distinguishing the Applicant's specification from the teachings of Cathey-

Applicant is reminded that **the name of the game is the claim** and that arguments pertaining to distinguishing claim language itself from the teachings of Cathey will persuade the Examiner.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Schillinger whose telephone number is (571) 272-1697. The examiner can normally be reached on M-T, R-F 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl W. Whitehead, Jr. can be reached on (571) 272-1702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Laura M Schillinger  
Primary Examiner  
Art Unit 2813

12/14/06